

Appl. No. 09/805,099
Atty. Docket No. 8244MLS
Amdt dated 5/11/06
Reply to Office Action of 3/1/06
Customer No. 27752

REMARKS/ARGUMENTS

Claims 19-21 have been cancelled herewith, without prejudice, in view of the amendments to Claim 1.

Claim 1 has been amended to re-cast the claim in a "business method" format, which now recites a listing of additional product benefits. It is submitted that this format more accurately reflects the substance of the invention. The amendment is fully supported by the specification, as discussed hereinafter. Claim 10 now recites the lithium salt, per earlier Claim 1.

It is submitted that all amendments are fully supported and entry is requested.

Formal Matters

For the record, there are no objections or rejections under §112 outstanding.

Rejections Under 35 USC 102

All cases stand rejected over U.S. 6,491,840, for reasons of record at pages 1-5 of the Office Action.

All claims previously stood rejected over U.S. 6,495,058, but that rejection under §102 was withdrawn. In view of the amendment herewith to remove the lithium salt recitation from Claim 1, the earlier rejection over '058 is also addressed.

Applicants respectfully traverse all rejections, to the extent they may apply to the claims as now amended.

As the Examiner is aware from case law cited at MPEP 2141.02, "[A] patentable invention may lie in the discovery of the source of a problem even though the remedy may be obvious once the source of the problem is identified." This is part of the "subject matter as a whole" test under 35 USC 103.

The Examiner's attention is directed to the fact that the problem identified and addressed by the Applicants herein lies not with the fabric treatment products, themselves, nor with their functional method of use to handle fabric wrinkling. Rather, the problem lies in discovering the need to heighten the awareness of consumers

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regarding such products (page 1, last line) and the acceptance of such products in their daily lives, rather than as mere "niche" products (page 2, ¶¶1-3.)

Succinctly stated, then, the problem identified by Applicants boils down to this: Here we have a product that performs its intended use admirably, but consumers are not buying/trying/using the product for wrinkle control in quantities sufficient "to establish successful large markets," witness Applicants' discussion of niche products at page 3, ¶3, and the discussion at page 90, ¶1.

Having identified this problem, Applicants have addressed it by providing informational materials that go beyond the conventional "how-to-use" usage instructions and have identified advantages/benefits for the product that go beyond the wrinkling benefit. Accordingly, the instructions provided with the product now educate the consumer regarding four key pieces of information designed to improve acceptance and usage:

- i) the wrinkle-control benefit of the product;
- ii) that the benefit can be achieved even without heat;
- iii) how to use the product properly by fabric manipulation; and
- iv) importantly, educate the consumer regarding additional benefit(s), beyond wrinkle removal, that are afforded by the product.

Notably, the instructions regarding such additional benefits differ from the instructional benefits disclosed in U.S. 6,491,808 (column 84, lines 22-27, column 78, lines 46-58, column 85, line 26 and Claims 50-54. See also U.S. 6,495,058 at column 52, lines 1-30 and Claims 39-41.)

Applicants discuss the use of information regarding the product, in the context of promoting acceptance by the consumer, especially at page 89 of the specification. As discussed at page 90, paragraph 2, "Other product features such as additional non-wrinkle related benefits are also unobvious [to the consumer] unless they are shared via instructions that are designed to call them to the consumer's attention."

A listing of such additional advantages/benefits, beyond wrinkle control, that are available to the consumer is discussed in the context of the consumer education process at pages 103-112 of the specification. Included are one or more of the following additional

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benefits whose dissemination is designed to overcome the usage/acceptance/"niche"
product problems discussed above:

- i) rewear of previously worn clothes without re-laundering;
- ii) rewear of previously dry-cleaned clothes;
- iii) extending fabric lifetime using rewear to reduce the number of times
the fabric must be cleaned or laundered; and
- iv) providing a means for individuals in specific user groups to safely
remove wrinkles from fabrics.

By the present invention, one or more of said benefits (i.-iv.) are communicated to
the consumer to promote acceptance/usage of the product.

The Examiner is aware that, "... printed matter, in an article of manufacture-
claim, can be given 'patentable weight.'" *In re Miller*, 164 USPQ 46, 49 (CCPA 1969;
emphasis in the original). Moreover, "Differences between an invention and the prior art
cited against it cannot be ignored merely because those differences reside in the content
of the printed matter . . . The claim must be read as a whole." *In re Gulack*, 217 USPQ
401, 403 (Fed. Cir. 1983).

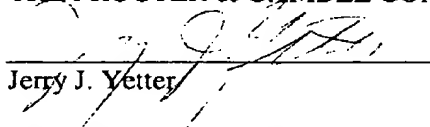
Since the proposed instructional materials of '840 (or '058) – cited above – do not
contemplate the instructional materials herein, it is submitted that the rejections under
§102 cannot stand, as a matter of law.

In light of the foregoing, withdrawal of all rejections and favorable action in the
case are requested.

Respectfully submitted,

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